Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Nepal*

I. Introduction

1. The Committee considered the initial report of Nepal (CRPD/C/NPL/1 and Corr.1) at its 367th and 368th meetings (see CRPD/C/SR.367 and CRPD/C/SR.368), held on 19 and 20 February 2018. It adopted the present concluding observations at its 382nd meeting, held on 1 March 2018.

2. The Committee welcomes the initial report of Nepal, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies (CRPD/C/NPL/Q/1/Add.1) to the list of issues prepared by the Committee (CRPD/C/NPL/Q/1).

3. The Committee appreciates the constructive dialogue held with the State party's high-level delegation, which included representatives of the relevant government ministries and departments. The Committee commends the delegation for its frank responses to the questions that were posed by members of the Committee.

II. Positive aspects

4. The Committee commends the people of Nepal for enduring a decade-long armed conflict, which was brought to an end with the signing of the Comprehensive Peace Agreement between the Government of Nepal and the Communist Party of Nepal (Maoist) on 21 November 2006. The Committee notes that the new Constitution that came into force in 2015 not only reflects the achievements of the People's Movement but also has implications for the implementation of the Convention.

5. The Committee notes that, prior to the ratification of the Convention, Nepal had enacted a number of specific laws for the protection and promotion of the rights of persons with disabilities, such as the Disabled Protection and Welfare Act in 1982 and the Disabled Protection and Welfare Regulation in 1994. The Committee appreciates the fact that the State party is currently in the process of revising its domestic legislation to bring it into full compliance with the Convention. In particular, the Committee commends the enactment of the Disability Rights Act of 2017 and the adoption of the Thirteenth Plan (2013–2016) as a key strategy to implement the rights outlined in the Convention.

6. The Committee commends the efforts made by the State party in its preparation of the report, including bringing together representatives of a cross section of agencies led by the Ministry of Women, Children and Social Welfare, and holding consultations with a

* Adopted by the Committee at its nineteenth session (14 February–9 March 2018).

range of stakeholders represented by various government ministries, including the Office of the Prime Minister.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

7. The Committee is concerned that the State party tends to adhere to the World Health Organization definition of disability, which has a focus on conditions arising from inherent personal or medical limitations, thereby overlooking conditions that arise from interaction with environmental factors. While the Convention recognizes that the concept of disability is evolving, the State party appears to uphold the concept of "permanent disability". The Committee is concerned that the State party still uses a classification of disability that excludes certain groups of persons with disabilities who do not fall into any of its categories, such as those who are hard of hearing. The Committee is also concerned that persons with disabilities from rural areas and indigenous backgrounds face barriers in gaining access to disability identity cards.

8. **The Committee recommends that the State party adopt a human rights model of disability, which stresses the human dignity of persons with disabilities and conditions arising from interaction with various barriers that may hinder their full and effective participation in society on an equal basis with others. The State party should ensure that its classification of disability is human rights-based and does not exclude certain groups of persons with disabilities. The State party should take appropriate measures to remove all barriers to ensure that persons with disabilities from rural areas and indigenous backgrounds have access to disability identity cards.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

9. While noting that the Constitution prohibits discrimination against persons with disabilities, the Committee is concerned that persons with disabilities still face multiple and intersectional forms of discrimination on other grounds such as caste and ethnicity, in particular women and girls with intellectual or psychosocial disabilities, autistic persons, and persons from ethnic, Dalit, Madhesi and Muslim communities.

10. **The Committee recommends that the State party implement existing anti-discrimination legislation, policies and programmes in order to prevent multiple and intersectional discrimination against disadvantaged groups, including autistic persons and ethnic, Dalit, Madhesi and Muslim communities. The Committee also recommends that the State party establish accessible and effective mechanisms for victims of discrimination to seek redress and appropriate compensation.**

Women with disabilities (art. 6)

11. The Committee is concerned about the lack of information on the public life of women with disabilities in Nepal, including their social, economic and employment status and political situation. It is particularly concerned about the exclusion of women with disabilities from decision-making processes. The Committee is also concerned about the reportedly high number of cases of sexual violence and abuse of women and girls, including cases of gang rape of women and girls with disabilities, and that some cases remain unreported.

12. **The Committee urges the State party to consult with the representative organizations of women and girls with disabilities, to use those consultations as a basis to ensure their participation in political and public life and to implement law reform and policy changes, particularly on the family lives, education, health services and employment of women and girls with disabilities. The Committee recommends that the State party combat discriminatory practices, as specified in the Three-Year**

Interim Plan (2010–2013), which focuses on policy, legal and institutional reform to eliminate all forms of discrimination affecting women and girls. The Committee also recommends that the State party strengthen and implement legislation and provide for accessible monitoring and reporting mechanisms to detect, prevent and combat all forms of violence, including sexual violence, against women and girls with disabilities.

Children with disabilities (art. 7)

13. The Committee is concerned about the absence of clear linkages between policies aimed at protecting children, such as the Ten-Year Children's National Action Plan and the Thirteenth Plan (2013–2016), and their actual implementation. The Committee is particularly concerned about the absence of specific measures to support children with disabilities and their families, and about the inadequacy of inclusive education for children, particularly those from rural areas, marginalized ethnic minority groups and indigenous communities. The Committee is also concerned about reports of children with disabilities being abandoned, and exposed to exploitation and abuse as a result.

14. **The Committee recommends that the State party take steps, which should include consultations with the representative organizations of persons with disabilities and the relevant ethnic minorities and indigenous groups, to ensure an overall increase in the enrolment of children with disabilities in primary school education; an improvement in the implementation of inclusive early childhood education; increased opportunities for vocational training for young people with disabilities; and strengthened measures for the prevention of violence, abuse, exploitation and abandonment of children with disabilities. The State party should pay particular attention to children with disabilities belonging to marginalized groups in rural and mountainous areas, especially children with intellectual or psychosocial disabilities and those from indigenous communities.**

Awareness-raising (art. 8)

15. The Committee is concerned about the negative attitudes that are manifested in everyday language and the lack of awareness about the rights of persons with disabilities, particularly women and girls with intellectual and/or psychosocial disabilities who are from ethnic, Dalit, Madhesi and Muslim communities. The Committee notes that the current awareness-raising measures are inadequate, given that not even persons with disabilities and their families, let alone the general public and the relevant professionals, are aware of the issues concerning the rights of persons with disabilities.

16. **The Committee recommends that the State party, in collaboration with the representative organizations of persons with disabilities, develop and implement public awareness-raising and education programmes on the rights and situation of persons with disabilities, aimed at the media, public officials, judges and lawyers, the police, social workers and the general public, in order to foster a positive image of persons with disabilities as autonomous holders of human rights. The State party should ensure that its awareness-raising programmes recognize the cross-cutting nature of the Convention, with particular regard to articles 2, 3, 5, 12, 13, 15, 16 and 21, and it should adopt a human rights model of disability as a key strategy to strengthen positive public awareness of the diversity of disabilities.**

Accessibility (art. 9)

17. The Committee is concerned that, as noted in the National Policy and the Plan of Action on Disability (2006), the measures taken by the State party to improve accessibility are limited to persons with disabilities who live in urban environments, thereby excluding all groups of persons with disabilities who live in rural and remote mountainous areas.

18. **The Committee recommends that, in line with its general comment No. 2 (2014) on accessibility, the State party:**

(a) **Broaden its policy for accessibility to cover all groups of persons with disabilities, including those living in rural and remote mountainous areas;**

(b) **Strengthen measures, including public procurement, to grant access for all persons with disabilities, including those living in rural areas, to information and communications technologies and to low-cost software and assistive devices;**

(c) **Strengthen its monitoring and enforcement mechanisms on accessibility to ensure that the National Policy and the Plan of Action on Disability (2006), the Right to Information Act (2007), the new comprehensive accessibility guidelines (2013), the Thirteenth Plan (2013–2016) and the current Fourteenth Plan, are duly implemented.**

Situations of risk and humanitarian emergencies (art. 11)

19. The Committee is concerned about the lack of protective measures and support specifically aimed at the vulnerable groups of persons with disabilities who were disproportionately affected by the 2015 earthquake, including women, persons with leprosy, children and indigenous peoples.

20. **The Committee recommends that the State party adopt an effective mechanism, in accordance with the Sendai Framework for Disaster Risk Reduction 2015–2030, in order to have an accessible communication strategy (including hotlines, a text message warning application and general manuals in sign language and Braille) and a comprehensive emergency strategy and protocols for situations of disaster and risk. The Committee also recommends that the State party call upon all public services to develop individual and local plans for the safe evacuation of persons with disabilities, in consultation with them through their representative organizations. The State party should ensure that post-disaster recovery and rehabilitation efforts follow a human rights-based approach in order to protect all persons with disabilities effectively.**

Equal recognition before the law (art. 12)

21. The Committee is concerned that no changes have been made to legal provisions in order to replace substituted decision-making with a supported decision-making approach that respects the autonomy, will and preferences of persons with disabilities, in full conformity with article 12 of the Convention and the Committee's general comment No. 1 (2014) on equal recognition before the law. The Committee is particularly concerned that, while efforts are being made to implement supported decision-making, substituted decision-making is still used in the State party. The Committee is also concerned about reports that persons with intellectual or psychosocial disabilities are sometimes dismissed from governmental, judicial, institutional or private enterprises, and their equal recognition before the law thus denied, contrary to the provisions of article 12 of the Convention.

22. **The Committee recommends that the State party revise its legislation in order to recognize the full legal capacity of all persons with disabilities, notwithstanding their impairment, on an equal basis with others, and introduce supported decision-making mechanisms, in line with the Committee's general comment No. 1. It also recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on the principles of supported decision-making.**

Access to justice (art. 13)

23. While noting the efforts made by the State party to ensure access to justice for persons with disabilities, the Committee remains concerned about the lack of explicit provisions to provide, when necessary, procedural accommodation for persons with disabilities that is appropriate to their age and type of disability, in order to guarantee their access to justice. It is also concerned about reports of the insufficient use of sign language, Braille and Easy Read formats, and the lack of appropriate training for judicial, legal and law enforcement professionals.

24. **The Committee recommends that the State party take appropriate measures to ensure physical access, accessible legal services and the presence of qualified sign**

language and tactile sign interpreters in courtrooms and police stations. The measures should include ensuring that persons with disabilities are not discriminated against on account of their disability when sign language, Braille or Easy Read formats are required, or due to the lack of appropriate training of legal professionals, police or prison officers.

Liberty and security of the person (art. 14)

25. The Committee is concerned that persons with intellectual and/or psychosocial disabilities are allegedly chained or detained in houses, or forcibly placed in psychiatric facilities, and that physical examinations, medical treatments and medication procedures are sometimes carried out without their free consent. The Committee is also concerned about reported cases of the chaining, torturing and overdosing of persons with intellectual and/or psychosocial disabilities in psychiatric treatment facilities.

26. **The Committee recommends that the State party take all legal and other measures necessary to stop the deprivation of liberty of persons with disabilities on the basis of actual or perceived impairment. The Committee also recommends that any examination or treatment of persons with disabilities be undertaken after the persons concerned have given their free and informed consent, in line with the Committee's guidelines on the right to liberty and security of persons with disabilities (see A/72/55, annex). The Committee also recommends that the State party investigate, prosecute and punish cases of chaining and detention in private homes, and forcible placement and treatment in psychiatric facilities.**

Freedom from exploitation, violence and abuse (art. 16)

27. The Committee is concerned about the absence of any monitoring mechanism to collect disaggregated data on the prosecution of cases of violence, abuse and exploitation of persons with disabilities, in particular data on the sexual exploitation and abuse of women and children with disabilities.

28. **The Committee recommends that the State party take appropriate measures to protect all persons with disabilities from exploitation, violence and abuse both within and outside the home.**

Living independently and being included in the community (art. 19)

29. The Committee is concerned that persons with disabilities are not provided with adequate means to enable them to exercise choice and control over their lives and make their own decisions, particularly to live independently and within their community. The Committee is also concerned that the State party has not adopted any policy measures to protect persons with disabilities against forced institutionalization.

30. **In line with its general comment No. 5 (2017) on living independently and being included in the community, the Committee recommends that the State party adopt a strategy to implement independent living schemes and to ensure access to disability-specific community services. The Committee also recommends that the State party ensure that persons with disabilities who live with or are dependent on their families receive appropriate support to enable them to live independently in the community.**

Personal mobility (art. 20)

31. The Committee is concerned that the majority of public infrastructure, including government offices, hospitals, schools, colleges, banks, roads, public buildings and public transportation, is not easily accessible for persons with disabilities. The Committee is also concerned that streets are not paved to accommodate users of crutches and wheelchairs. The Committee is further concerned that the situation is even more difficult in cases where houses, schools and health facilities are located in mountainous and hilly regions where wheelchairs and other devices cannot be used.

32. **The Committee urges the State party to adopt appropriate measures, including granting access to quality and affordable mobility aids, assistive devices, technologies**

and any services necessary to ensure the unrestricted personal mobility of all persons with disabilities, in order to facilitate their general participation and inclusion within the community, and in particular their involvement in education and livelihood activities.

Freedom of expression and opinion, and access to information (art. 21)

33. The Committee is concerned about the absence of a centre for sign language research and training of sign language interpreters, and the absence of a State system for the certification and approval of sign language interpreters' qualifications.

34. **The Committee recommends that the State party take appropriate measures to establish a centre for sign language research and training of sign language interpreters, and ensure their certification, involving the representative organizations of deaf persons.**

Education (art. 24)

35. The Committee is concerned that the State party maintains a system of special and segregated schools. The Committee is particularly concerned about:

(a) The lack of sufficient support and training for administrative and teaching staff with regard to inclusive education;

(b) The lack of accessibility and reasonable accommodation for students with disabilities in mainstream schools;

(c) The absence of a comprehensive strategy to promote inclusive education in urban and rural areas.

36. **The Committee recommends that, in line with its general comment No. 4 (2016) on the right to inclusive education and with Sustainable Development Goal 4, in particular targets 4.5 and 4.a, the State party increase its efforts to achieve inclusive education by:**

(a) **Adopting a mandatory teacher-training policy on the inclusive education model, with indicators and goals to be achieved, and providing support for trained teachers, as well as Braille, sign language, Easy Read formats, alternative means and modes of communication and other auxiliary equipment and media;**

(b) **Ensuring access to inclusive education for all persons with disabilities at all levels of education, including adult education, throughout the country, and guaranteeing that the education model covers the most remote areas, incorporates a gender perspective and is ethnically and culturally relevant.**

Health and habilitation and rehabilitation (arts. 25–26)

37. The Committee is concerned that persons with disabilities have limited access to comprehensive health and rehabilitation services, particularly in rural and remote areas.

38. **The Committee recommends that the State party develop measures to ensure comprehensive access to health services for persons with disabilities, particularly sexual and reproductive health services, maternal and child health centres and psychosocial services, and to strengthen the provision of comprehensive community-based rehabilitation services, including in rural and remote areas.**

Work and employment (art. 27)

39. The Committee is concerned about the lack of information on the effectiveness of the employment quota for persons with disabilities in the civil service and how these posts are filled by persons with disabilities, particularly by persons with intellectual and/or psychosocial disabilities, including those from indigenous backgrounds.

40. **The Committee recommends that the State party take appropriate measures to gather data and develop criteria to fill the 5 per cent quota for civil service positions that are reserved for persons with disabilities, including by carrying out a**

comprehensive evaluation of those jobs in terms of quality, and the extent to which persons with intellectual and/or psychosocial disabilities, including those from indigenous backgrounds, have benefited from the quota compared to those who remain unemployed.

Adequate standard of living and social protection (art. 28)

41. The Committee is concerned about the effectiveness of a number of policy measures, such as the National Policy and Plan of Action on Disability (2006) and the Poverty Alleviation Fund, in ensuring a decent standard of living for persons with disabilities and allowing them to meet the additional costs of living with a disability. The Committee is also concerned about the extent to which community-based rehabilitation programmes have been effective in reducing the number of persons with disabilities living in poverty.

42. **The Committee recommends that the State party take the necessary measures to ensure that persons with disabilities throughout its territory have access to community-based rehabilitation services and adequate social protection programmes that are oriented towards social and community inclusion. The Committee requests that the State party provide updated data in its next periodic report on the number and percentage of persons with disabilities who have benefited from social protection floors from the Government, disaggregated by sex, age and ethnicity, in particular for persons with intellectual and/or psychosocial disabilities, hearing or visual disabilities and multiple disabilities.**

Participation in cultural life, recreation, leisure and sport (art. 30)

43. The Committee is concerned about the effectiveness of the National Sports Policy (2010), which was adopted in order to develop and expand sporting activities for persons with disabilities in order to encourage them to participate in the sports of their choice. The Committee is also concerned about whether the Policy has been successful in ensuring the rights of persons with disabilities under article 30 of the Convention, particularly those with visual, speech and hearing impairments. The Committee notes that, while the State party has signed the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, it has yet to ratify it.

44. **The Committee recommends that the State party take appropriate measures to ensure that persons with disabilities can participate in cultural, recreational, leisure and sporting programmes. The Committee encourages the State party to take all appropriate measures as soon as possible to ratify and implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

45. The Committee is concerned that the most recent census, carried out in 2011 through the Central Bureau of Statistics, did not include the collection of disaggregated data on disabilities. The census does not therefore accurately reflect of the situation of persons with disabilities in the State party.

46. **The Committee recommends that the State party pay attention to the links between article 31 of the Convention and target 17.18 of Sustainable Development Goals in order to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts, and to analyse the data to provide tailored services for persons with disabilities. The Committee also recommends that the State party utilize the set of questions prepared by the Washington Group on Disability Statistics in future censuses in order to collect comprehensive data on disability.**

International cooperation (art. 32)

47. The Committee is concerned that the collaboration of the State party with international bodies to improve its capacity to implement the Convention does not include adequate participation of persons with disabilities. The Committee is also concerned about how promptly new technologies and good practices reach persons with disabilities and their representative organizations, and the extent to which persons with disabilities have been included in consultations or partnerships aimed at achieving the Sustainable Development Goals.

48. **The Committee recommends that the State party review its international projects launched in partnership with global aid agencies to ensure full compliance with the principles of the Convention. The Committee also recommends that the State party ensure the meaningful and empowered inclusion of persons with disabilities and their representative organizations in designing, implementing and monitoring disability-inclusive development projects and in achieving the Sustainable Development Goals.**

National implementation and monitoring (art. 33)

49. The Committee is concerned about the lack of resources for and the lack of effective participation of the representative organizations of persons with disabilities in the processes to monitor the implementation of the Convention, in accordance with article 33 (3).

50. **The Committee recommends that the State party provide adequate funding for both established monitoring frameworks and for the representative organizations of persons with disabilities to enable them to monitor the implementation of the Convention across the State party, in accordance with article 33 (3) and with the guidelines on independent monitoring frameworks and their participation in the work of the Committee (see CRPD/C/1/Rev.1, annex).**

IV. Follow-up

Dissemination of information

51. **The Committee requests the State party to provide information, within 12 months of the adoption of the present concluding observations and in accordance with article 35 (2) of the Convention, on the measures taken to implement the Committee's recommendations contained in paragraph 20 (situations of risk and humanitarian emergencies).**

52. **The Committee requests the State party to implement the recommendations of the Committee contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, the judiciary, law enforcement officers and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities, the private sector and the media, using modern social communication strategies.**

53. **The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.**

54. **The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.**

Technical cooperation

55. **The Committee recommends that the State party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group on the Convention for the purpose of obtaining guidance and assistance on implementing the Convention and the present concluding observations.**

Next periodic report

56. **The Committee requests the State party to submit its combined second to fourth periodic reports by 7 June 2024, and to include in them information on the implementation of the recommendations made in the present concluding observations. The Committee also requests the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report of a State party. The replies of a State party to such a list of issues constitute its report.**